In the High Court of Judicature at Madras

Dated:05.07.2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM
and
The Hon'ble Mr. Justice V. DHANAPALAN

Habeas Corpus Petition No.510 of 2006

S. Maheswari .. Petitioner

vs.

1. The District Collector &
   District Magistrate
   Kanyakumari.

2. State of Tamil Nadu rep. by
   Secretary to Government
   Cooporation, Food and Consumer Protection
   Department, Fort St. George
   Chennai 600 009.

3. The Secretary to Government
   Union of India
   Food and Consumer Protection
   Department, No.305-A,
   Sasthiri Bhawan
   New Delhi. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus calling for the entire records connected with the order in P.D.No.1/2006 dated 20.04.2006 on the file of the 1st respondent, quash the same and to produce the detenu before the Hon'ble Court and set at liberty the detenu, viz., S.Babu, S/o.Late Shanmugam, now detained in Central Prison, Palayamkottai, Tirunelveli District, under the Provisions of Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act 1980 (Act 7 of 1980) as stated therein.

For petitioner : Mr. V. Parthiban
for Mr. C. Prakasam

For respondents 1 and 2 : Mr. M. Babu Muthu Meeran
Addl. Public Prosecutor

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Mr. P. Kumaresan
Addl.Central Govt.standing
counsel for R.3.

ORDER

(Order of the Court was made by P. SATHASIVAM,J.,)

The petitioner by name Maheswari, challenges the impugned order of detention dated 20.04.2006, detaining her brother S. Babu, as "Black Marketer" under Section 3 (1) r/w 3(2)(a) of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Act 7 of 1980).

2. Heard both sides.

3. Even at the foremost the learned counsel for the petitioner submitted that there was delay in considering the representation of the detenue, which vitiates the ultimate order of detention. With reference to the said claim the learned Additional Public Prosecutor has placed details, which show that the representation of the detenue dated 27.04.2006 was received by the Government on 02.05.2006 and remarks were called on 03.05.2006, remarks were received on 04.05.2006. After receipt of the remarks, the same was dealt with by the Under Secretary and the Deputy Secretary on 05.05.2006; order was passed by the Minister for Prohibition and Excise on 16.05.2006, rejection letter was prepared on 16.05.2006; the same was sent to the detenue on 17.05.2006 and the rejection letter was served on the detenue only on 18.05.2006. As rightly pointed out though the Under Secretary and Deputy Secretary have dealt with the file on 05.05.2006, there is no explanation or reason for getting an order from the concerned Minister till 16.05.2006. In the absence of any explanation, we hold that there is a delay between 05.05.2006 and 16.05.2006. On this ground, the impugned detention order is quashed; accordingly, this petition is allowed. The order of detention impugned in the petition is set aside and the detenue is directed to be set at liberty forthwith from the custody unless she is required in connection with any other case.

Sd/-
Asst. Registrar.

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Sub Asst. Registrar.

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To

1. The Secretary to Government
   of Tamil Nadu Co.Operation
   Food and Consumer Protection
   Department, Fort St. George
   Chennai 600 009.

2. The District Collector &
   District Magistrate
   Kanyakumari.

3. The Superintendent of Central Prison
   Palyamkottai.

4. The Secretary to Government,
Union of India,
Food and consumer Protection Department
No.305-A. Sasthiri Bhavan,
New Delhi.

5. The Joint Secretary to Government,
Public (Law and order) Department,
Fort St. George, Chennai-9.

6. The Public Prosecutor,
   High Court, Madras.

H.C.P.No.510 of 2006

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